

**WARRANT FOR ANNUAL TOWN MEETING
TOWN OF LANESBOROUGH
COMMONWEALTH OF MASSACHUSETTS
FISCAL YEAR 2018**

BERKSHIRE, ss.

June 1, 2017

To any of the Police Officers of the Town of Lanesborough:

GREETINGS:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of the Town of Lanesborough, qualified to vote in Town affairs, to meet at the Lanesborough Elementary School, 188 Summer Street in said Lanesborough on Tuesday, June 13, 2017 at 6:00 p.m., then and there to act on the following Articles of business, Articles 2 through 21 and action on Article 1, will take place on Tuesday, June 20, 2017, at 83 North Main Street, Lanesborough and the polls will be open at noon and close at 8:00 P.M.

ARTICLE 1. To elect the necessary Town Officers on one ballot;
One Selectman for three years;
One Finance Committee member for three years;
One Lanesborough School Committee member for three years;
One Planning Board member for five years;
One Library Trustee for three years;
One Cemetery Commissioner for three years;
One Moderator for one year;

And act on the following questions:

Question 1

Shall the Town vote to have its Selectmen appoint Cemetery Commissioners?

YES _____

NO _____

Question 2

Shall the Town vote to accept the provisions of Section 6 C of Chapter Forty of the General Laws, which authorize cities and towns to appropriate money for the removal of snow and ice from private ways therein open to public use?

YES _____

NO _____

Nonbinding Question

Shall the Selectmen vote to change the health insurance premium contribution rate for eligible Town retirees from Town's share 85% and Retirees' share 15% to Town's share 70% and Retirees' share 30%?

YES _____

NO _____

ARTICLE 2. To fix the compensation of all elected Town Officers as provided by M.G.L. c. 41, s. 108, as amended, and to hear the budget, act thereon and raise and appropriate, borrow or transfer from available funds a sum or sums of money to defray charges and expenses of the Town for the ensuing year, or take any other action relative thereto.

(Recommended 3-0 the Board of Selectmen)
(Recommended 5-0 by the Finance Committee)

ARTICLE 3. To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for special legislation regarding the appointment of the Library Trustees, in the form set forth below; provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approve amendments to bill before enactment by the General Court; and provided further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition, or take any other action relative thereto.

An Act Appointing Library Trustees for the Town of Lanesborough

Section 1. Notwithstanding the provisions of section 10 of chapter 78 or any special or general law to the contrary, the Town of Lanesborough board of library trustees shall be appointed for terms of three years.

Section 2. Notwithstanding the provisions of section 10 of chapter 78 or of any other special or general law to the contrary, this act shall take effect forthwith and the Board of Selectmen shall appoint 3 library trustees for the Town of Lanesborough. The board of library trustees shall annually choose a chairman, secretary and treasurer in accordance with section 10 of chapter 78. Any further increase or decrease in the size of the board of library trustees shall be made consistent with section 2 of chapter 41 of the General Laws.

Section 4. This act shall take effect upon passage.

(Recommended 2-0-1 the Board of Selectmen)

ARTICLE 4. To see if the Town will vote to appropriate for the operation of the Ambulance Enterprise **\$36,610.00** for salaries and expenses, to be raised as follows: Departmental Receipts - **\$36,610.00**; or take any other action relative thereto.

(Recommended 3-0 the Board of Selectmen)
(Recommended 5-0 by the Finance Committee)

ARTICLE 5. To see if the Town will vote to appropriate for the operation of the Sewer Enterprise **\$35,143.00** for expenses and budgeted surplus and that **\$35,143.00** be raised from user fees, or take any other action relative thereto.

(Recommended 3-0 the Board of Selectmen)
(Recommended 5-0 by the Finance Committee)

ARTICLE 6. To see if the Town will vote to appropriate and transfer from funds to be received from the Baker Hill Road District, the sum not to exceed **\$269,350.00** to the Baker Hill Road District Police Salaries and Expenses Account for Fiscal Year 2018 pursuant to the provisions of M.G.L. Chapter 44, Section 53E, or take any other action relative thereto.

(Recommended 3-0 the Board of Selectmen)
(Recommended 4-0-1 by the Finance Committee)

ARTICLE 7. To see if the Town will vote pursuant to the provisions of G.L. c.44, §53E½, as most recently amended, to: (1) establish the following revolving funds for Fiscal Year 2018, and further, to establish fiscal year spending limits as set forth below; and (2) amend the Town of Lanesborough General By-laws by inserting a new Chapter 27 establishing various revolving funds, specifying the departmental receipts to be credited to each fund, the departmental purposes or programs for which each fund may be expended, and the entity authorized to expend each fund, such bylaw to provide as follows:

Chapter 27- Revolving Funds

Section 1. There are hereby established in the Town of Lanesborough pursuant to the provisions of G.L. c.44, §53E½, the following Revolving Funds, from which the specified department head, board, committee, or officer may incur liabilities against and spend monies from without appropriation in accordance with the limitations set forth in this by-law.

Section 2. Fringe benefits of full-time employees whose salaries or wages are paid from the fund shall also be paid from the fund.

Section 3. No liability shall be incurred in excess of the available balance of the fund.

Section 4. The total amount spent during a fiscal year shall not exceed the amount authorized by Annual Town Meeting or any increase therein as may later be authorized by the Board of Selectmen and Finance Committee in accordance with G.L. c.44, §53E½.

Section 5. Interest earned on monies credited to a revolving fund established by this by-law shall be credited to the General Fund.

Section 6. Authorized Revolving Funds

Revolving Fund	Authorized to Expend	Revenue Source	Use of Fund
LACTV Cable Commission	Town Manager	Franchise Fees	Operations
Lanesborough Agricultural Commission	Agricultural Commission	Donations	Agricultural Projects
Lanesborough Tree and Forest	Tree and Forest Committee	Donations	Tree Preservation Projects
Special Education Services	School Committee	Town of New Ashford	Programs
Hazardous Materials Team	Fire Chief	Billings	Hazardous Materials Reimbursement

Section 7. Procedures and Reports. Except as provided in General Laws Chapter 44, §53E½ and this by-law, all applicable state and local laws and regulations that govern the receipt, custody, expenditure and payment of town funds shall apply to the use of revolving funds established and authorized by this by-law.

And, further, to set annual spending limits for such revolving funds as follows:

Revolving Fund	Fiscal Year Spending Limit
LACTV Cable Commission	\$15,000
Lanesborough Agricultural Commission	\$5,000
Lanesborough Tree and Forest	\$3,000
Special Education Services	\$20,000
Hazardous Materials Team	\$5,000

Or take any action in relation thereto.

(Recommended 3-0 the Board of Selectmen)
(Recommended 4-0-1 by the Finance Committee)

ARTICLE 8. To see if the Town will vote to transfer **\$35,000.00** from Free Cash into the Stabilization Fund, or take any other action relative thereto.

(Recommended 3-0 the Board of Selectmen)
(Recommended 5-0 by the Finance Committee)

ARTICLE 9. To see if the Town will vote to appropriate and transfer from Free Cash the sum of **\$35,000.00**, or any other sum, to pay the Town's contribution to the Other Post Employment Benefits Liability Trust Fund, or take any other action relative thereto.

(Recommended 3-0 the Board of Selectmen)
(Recommended 5-0 by the Finance Committee)

ARTICLE 10. To see if the Town will vote to appropriate the sum of **\$98,000.00** for the purchase and equipping of a backhoe and related equipment, with or without a trade, and transfer from Free Cash **\$98,000** for said appropriation; or take any other action relative thereto.

(Recommended 3-0 the Board of Selectmen)
(Recommended 5-0 by the Finance Committee)

ARTICLE 11. To see if the Town will vote to appropriate the sum of **\$295,000.00** for the purchase and equipping of a grader and related equipment, with or without a trade, and to authorize the Treasurer, with the approval of the Board of Selectmen, to borrow the sum of **\$295,000.00** for said appropriation under applicable sections of Chapter 44 of the General Laws; or take any other action relative thereto.

($\frac{2}{3}$ vote required)
(Recommended 3-0 the Board of Selectmen)
(Recommended 5-0 by the Finance Committee)

ARTICLE 12. To see if the Town will vote to appropriate and transfer from Free Cash the sum of **\$132,394.00**, to pay off in advance the following short term loans: Town Hall Renovation Loan (\$31,149.00), Highway Loader Loan (\$26,415.00), Highway Skid Steer Loan (\$40,450.00), Fire Department Chief Vehicle, and Forestry Pick-up (\$34,380.00), or take any other action relative thereto.

(Recommended 3-0 the Board of Selectmen)
(Recommended 5-0 by the Finance Committee)

ARTICLE 13. To see if the Town will vote to authorize the Treasurer to make expenditures from the Transportation Bond Bill for the repair and maintenance of roadways in Lanesborough in anticipation of revenue and allow for the carry over of the funds from year to year until expended, or take any other action relative thereto.

(Recommended 3-0 the Board of Selectmen)
(Recommended 5-0 by the Finance Committee)

ARTICLE 14. To see if the Town will vote to appropriate and transfer from Free Cash **\$150,000.00** to be used by the Assessor to reduce the tax rate for Fiscal Year 2018, or take any other action relative thereto.

(Recommended 3-0 the Board of Selectmen)
(Recommended 5-0 by the Finance Committee)

ARTICLE 15. To see if the Town will vote to appropriate and transfer from Free Cash the sum of **\$10,000.00** for repair, design and professional services and any costs incidental thereto for the improvement of roads around and near Pontoosuc Lake, or take any other action relative thereto.

(Recommended 2-0-1 the Board of Selectmen)
(Recommended 5-0 by the Finance Committee)

ARTICLE 16. To see if the Town will vote to transfer Parcel 122-11 from the board or officer having the care, custody and control thereof, for the purpose for which it is currently held, to the Conservation Commission, for conservation purposes, and that said parcel be dedicated and designated as property subject to Article 97 of the Articles of Amendment of the Massachusetts Constitution, or take any other action relative thereto.

($\frac{2}{3}$ vote required)
(Recommended 3-0 by the Board of Selectmen)

ARTICLE 17. To see if the Town will vote to amend the Zoning By-law as follows, or take any other action relative thereto:

- 1) by adding the following uses to the Industrial Uses category in the Table of Permitted Uses in Section IV.C:

INDUSTRIAL USES	R	RA	B	LB	MR	I
Large Scale Solar Photovoltaic Installation	PBP	PBP	PBP	PBP	PBP	PBP
Small Scale Solar Photovoltaic Installation	✓	✓	✓	✓	✓	✓

- 2) and by adding the following subsection N. to section VIII, Special Provisions:

N. SOLAR PHOTOVOLTAIC INSTALLATIONS

1. **PURPOSE.** The purpose of this section is to provide a permitting process for solar photovoltaic installations so that they may be installed and utilized in a cost-effective, efficient, and timely manner so as to increase the use of distributed generation; to integrate these installations into the community in a manner that minimizes their impacts on the character of neighborhoods, on property values, and on the scenic, historic, and environmental resources of the Town; and to protect health and safety, while at the same time allowing solar photovoltaic technologies to be utilized.
2. **APPLICABILITY.** This subsection N. applies to solar photovoltaic installations proposed to be constructed after the effective date of this bylaw. This section also applies to material modifications that alter the type, number, configuration or size of the solar photovoltaic installation.

3. DEFINITIONS.

Large Scale Solar Photovoltaic Installation – A ground mounted solar photovoltaic installation that occupies one sixteenth ($1/16^{\text{th}}$) of an acre or more, per acre, of a lot, or occupies less than one sixteenth ($1/16^{\text{th}}$) of an acre, per acre, of a lot, but for which the electricity generated therefrom is used primarily for off-site consumption.

Impervious Area of a Solar Panel - The area of impervious surface of a solar panel shall be the area of impervious footings and other structures providing the panel with physical attachment to the ground.

Small Scale Solar Photovoltaic Installation – Any size roof mounted or building mounted solar photovoltaic installation, or a ground mounted solar photovoltaic installation that occupies less than one sixteenth ($1/16^{\text{th}}$) of an acre, per acre, of a lot and for which the electricity generated therefrom is used primarily for on-site consumption.

Solar Photovoltaic Installation – A device, structure, or structural design feature, a substantial purpose of which is to provide for the collection, storage and distribution of solar energy for space heating or cooling, generation of electricity, or water heating. This includes appurtenant equipment for the collection, storage and distribution of electricity to buildings or to the electric grid.

4. SMALL SCALE SOLAR PHOTOVOLTAIC INSTALLATIONS.

- A. A small scale solar photovoltaic installation shall be allowed as a primary use or an accessory use in all zoning districts.
- B. A small scale solar photovoltaic installation may only be constructed or materially modified after the issuance of a building permit by the Building Inspector.
- C. A small scale solar photovoltaic installation proposed to be mounted on a building or rooftop may protrude no higher than the highest point of the roofline, except as provided in (i) below.
 - (i) A small scale solar photovoltaic installation may protrude above the highest point of the roofline, up to six (6) feet above the highest point of the roofline, by special permit from the Planning Board upon a finding that such special permit is in the public interest and is consistent with the intent of the Zoning By-law.
- D. A ground mounted small scale solar photovoltaic installation may not exceed a height of fifteen feet (15').

- E. A ground mounted small scale solar photovoltaic installation shall comply with all the setback requirements set forth in SECTION V. G. – ACCESSORY USES AND STRUCTURES.
 - F. All impervious surfaces of a small scale solar photovoltaic installation, including solar photovoltaic panels, shall be included in the maximum lot coverage percentage requirement in SECTION V. A. – DIMENSIONAL REQUIREMENTS, unless the small scale solar photovoltaic installation or part thereof is installed over impervious surface that is already included in the calculation at the time of installation.
5. LARGE SCALE SOLAR PHOTOVOLTAIC INSTALLATIONS.
- A. USE REGULATIONS. In all zoning districts, large scale solar photovoltaic installations may only be constructed or materially modified after the issuance of a special permit from the Planning Board in accordance with this section and SECTION IX. B. – SPECIAL PERMITS.
 - B. COMPLIANCE. The construction, maintenance, operation, modification and removal of the large scale solar photovoltaic installation shall comply with all applicable local, state, and federal requirements.
 - C. SITE CONTROL. The applicant shall demonstrate legal control over the proposed site sufficient to allow for the construction and operation of the large scale solar photovoltaic installation.
 - D. UTILITY PROVIDER CONDITIONAL APPROVAL. The applicant shall demonstrate that it has received conditional approval to connect the large scale solar photovoltaic installation to the electric grid from the applicable utility provider. Off-grid installations are exempt from this requirement.
 - E. OPERATION & MAINTENANCE. The owner/operator of the large scale solar photovoltaic installation shall maintain the large scale solar photovoltaic installation and the site in good condition. This includes, but is not limited to, the maintenance of access roads, stormwater control measures, security measures and vegetation screening.
 - F. LIABILITY INSURANCE. Proof of liability insurance, in an amount and form acceptable to the Planning Board, shall be maintained until the large scale solar photovoltaic installation has been removed. All subsequent owners/operators shall continue to provide proof of liability insurance, in the form and amount approved by the Planning Board, to the Building Inspector on an annual basis.

G. FINANCIAL SURETY.

- (i) Any special permit granted hereunder for a large scale solar photovoltaic installation shall include a condition that the applicant provide a form of surety, such as a bond or escrow account, to cover the cost of removal and restoration of the site in the event the installation is abandoned. The amount and form of surety shall be determined by the Planning Board, but in no event shall the amount exceed one-hundred twenty-five (125%) percent of the estimated cost of removal.
Applicants shall submit a fully inclusive cost estimate, prepared by a qualified engineer and which accounts for inflation, of the costs associated with the removal of the large scale solar photovoltaic installation. The surety shall be submitted to the Planning Board at the time of application for the Building Permit, or prior to any disturbance, including tree cutting, at the site, whichever occurs first. Submission of the required surety shall be a condition of issuance of the Building Permit.
- (ii) No less than ninety (90) days prior to the expiration of any financial surety required by this section, the current operator of the large scale solar photovoltaic installation shall provide the Building Inspector with renewed, extended or replacement financial surety in an amount and form determined by the Planning Board in accordance with this section.

H. DESIGN REQUIREMENTS

- (i) Height – Large scale solar photovoltaic installations shall not exceed fifteen feet (15') in height.
- (ii) Setbacks – Large scale solar photovoltaic installations shall comply with the setback requirements set forth in SECTION V A. DIMENSIONAL REQUIREMENTS.
- (iii) Lighting – No lighting of the solar photovoltaic installation is permitted, except for manually operated emergency lights for use only when operating personnel are on site.
- (iv) Screening – Large scale solar photovoltaic installations shall be screened with dense native coniferous vegetation, nursery grown, planted in two rows 6 foot apart, with trees placed 10 feet on center offset, 10 to 12 feet in height, providing 90% visual opacity to the installation from adjoining properties and public and private ways. The Planning Board may approve compliance alternatives such as fencing or earthen berms upon request or

may waive this requirement if existing topography and/or vegetation provides sufficient screening.

- (v) Site Vegetation Clearing – The clearing of vegetation for installation shall be limited to that which is necessary for the construction, operation, maintenance, modification and removal of the large scale solar photovoltaic installation.
- (vi) Habitat Fragmentation – All large scale solar photovoltaic installations shall, to the fullest extent practicable, be clustered and located in or adjacent to areas of the site where the land has already been cleared so as to avoid habitat fragmentation.
- (vii) Security Measures – Large scale solar photovoltaic installations shall be secured and fully enclosed with a six (6) foot high fence constructed to prevent unauthorized persons from accessing the installation.
- (viii) Signs – The owner/operator shall install signs at the large scale solar photovoltaic installation, as determined by the Planning Board in order to protect public safety.
- (ix) Emergency Access – Large scale solar photovoltaic installations and access roads shall be constructed and maintained to allow for safe access by emergency vehicles.
- (x) Emergency Response Plan – Upon the request of the fire chief or police chief, the owner/operator of the large scale solar photovoltaic installation shall cooperate with all local public safety officials to develop and periodically update an emergency response plan.
- (xi) Underground Utilities – Wherever feasible, all on-site utilities shall be located underground except where the utilities connect into the electric grid at the property boundary.
- (xii) Maximum Lot Coverage Percentage – All impervious surfaces of the large scale solar photovoltaic installation, including solar photovoltaic panels, shall be included in the maximum lot coverage percentage requirement in SECTION V. A. – DIMENSIONAL REQUIREMENTS, unless the large scale solar photovoltaic installation or part thereof is installed over impervious surface that is already included in the calculation at the time of installation.

- I. **FILING REQUIREMENTS.** Applicants seeking to construct or modify a large scale solar photovoltaic installation shall submit the following information to the Planning Board with the special permit application. All maps to be submitted must be drawn at appropriate scales and be signed by a registered professional engineer or licensed land surveyor. The Planning Board may, in its discretion, waive any of the filing requirements.
- (i) **Contact Information** – Provide the applicant’s and property owner’s name, address, phone number, email address, and signature.
 - (ii) **Site Identification** – Provide the address and the Assessors’ map, lot and block number of the proposed site.
 - (iii) **Site Plans** – Provide site plans showing the following:
 - (1) Property lines of the proposed site.
 - (2) Elevation contour lines at two-foot or five-foot vertical intervals.
 - (3) Outlines of all existing and proposed buildings and structures on the proposed site, including distances from the proposed large scale solar photovoltaic installation.
 - (4) Existing and proposed access roads, driveways, public ways, private ways, and recreational trails on the proposed site.
 - (5) Detailed layout of the proposed large scale solar photovoltaic installation, including but not limited to panel mounts, foundations, appurtenant equipment and fencing.
 - (6) Detailed layout of the electric infrastructure to connect the large scale solar photovoltaic installation to the electric grid or net metering equipment.
 - (7) Delineation of all wetland resources and associated buffer areas.
 - (8) Locations of rare, threatened or endangered species, according to state or federal listing requirements, existing on the site.
 - (9) Proposed changes to the site, including grading, cut and fill, landscaping, native vegetation for screening, and vegetation to be removed or altered.
 - (10) Engineering controls at the site and on the access road to control erosion and sedimentation both during construction and after construction as a permanent measure. Such engineering controls shall conform to the Massachusetts Department of Environmental Protection’s Stormwater Policy and Stormwater Management Standards.
 - (iv) **Technical Information** – Provide the following information:

- (1) Blueprints or drawings of the large scale solar photovoltaic installation signed by a professional engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the installation and any potential shading from nearby trees or structures.
 - (2) One or three line electrical diagram detailing the solar photovoltaic installation, appurtenant equipment and electrical interconnection methods with all National Electric Code compliant devices.
 - (3) Documentation of the major components of the large scale solar photovoltaic installation to be used, including but not limited to solar photovoltaic panels, panel mounts and inverter.
- (v) Information sufficient to show that the proposed large scale solar photovoltaic installation will conform to SUBSECTION VIII N. 5. C. through SUBSECTION VIII N. 5. G.

J. TECHNICAL REVIEW. Upon receipt of an application for a large scale solar photovoltaic installation special permit, the Planning Board may engage professional and technical consultants, at the applicant's expense, pursuant to M.G.L. Chapter 44, § 53G, to assist the Planning Board with its review of application materials. The Planning Board may require the applicant to deposit funds with the Planning Board for such review at the time the application is accepted and to add additional funds as needed upon notice. Failure to comply with this section may be grounds for denying the special permit application. Upon the approval or denial of the application, any excess amounts in the account attributable to the application process, including any interest accrued, shall be refunded to the applicant. Procedures for the engagement of such consultants will be set forth in rules adopted by the Planning Board.

K. ABANDONMENT & REMOVAL.

- (i) A large scale solar photovoltaic installation shall be deemed abandoned when the large scale solar photovoltaic installation has not been in operation for a period of twelve (12) months.
- (ii) After twelve (12) months of non-operation, the Building Inspector shall provide written notification to the owner/operator that such large scale solar photovoltaic installation is presumed to be abandoned. The owner/operator shall have thirty (30) days from the date of the notification to rebut the presumption of abandonment by submitting evidence to the Building Inspector that the large scale solar photovoltaic installation has been in operation during the relevant twelve (12) month period.

- (iii) If the owner/operator does not respond within the thirty (30) day response period or does not submit evidence that, in the determination of the Building Inspector, proves that the large scale solar photovoltaic installation has been in operation during the relevant twelve (12) month period, then the large scale solar photovoltaic installation shall be deemed abandoned. The Building Inspector shall provide written notification of abandonment to the owner/operator.
- (iv) The owner/operator of the large scale solar photovoltaic installation shall remove the large scale solar photovoltaic installation and restore the site within one-hundred eighty (180) days of the date of the Building Inspector's initial written notification of abandonment. Removal of the large scale solar photovoltaic installation shall include the removal and proper disposal of all hazardous waste and substances from the site in accordance with all applicable federal, state and local laws and regulations. If the owner/operator fails to remove the large scale solar photovoltaic installation within one-hundred eighty (180) days, the Town shall have the right, to the extent it is duly authorized by law, to enter onto the proposed site and physically remove the large scale solar photovoltaic installation and restore the site at the sole expense of the owner/operator. If the installation is on Town-owned land the Town shall have the right to retain, transfer or sell the equipment.

L. LAPSE OF APPROVAL. Any special permit issued hereunder shall automatically lapse if the large scale solar photovoltaic installation is not installed and functioning within two (2) years of the grant of the special permit, or the large scale solar photovoltaic installation is abandoned as defined in SUBSECTION VIII N.5.K.

(Recommended 3-0 by the Board of Selectmen)

(Recommended 5-0 by the Planning Board)

This Article requires a 2/3 vote of Town Meeting

ARTICLE 18. To see if the Town will vote to add a new Chapter 28 to the General Bylaws of the Town of Lanesborough as follows:

When any town board or officer, including but limited to the Board of Selectmen, the Board of Health, the Planning Board, the Zoning Board of Appeals and the Conservation Commission, in its consideration of an application for a license, permit, variance or zoning amendment finds that technical or legal expertise is needed which is beyond that available within town government or existing appropriations, it may engage appropriate outside consultants and impose a fee therefore on the applicant. Failure to receive timely payment of such fee shall be grounds for denial of the application. This shall be administered in accordance with the provisions of Section 53G of Chapter 44 of the Massachusetts General Laws.

Or take any other action relative thereto.

(Recommended 3-0 the Board of Selectmen)
(Recommended 5-0 by the Planning Board)

ARTICLE 19. To see if the Town will vote to accept the provisions of G.L. c. 64N, Section 3 to impose a local sales tax upon the sale or transfer of marijuana or marijuana products by a marijuana retailer operating within the town to anyone other than a marijuana establishment at a rate not greater than 2 per cent of the total sales price received by the marijuana retailer as consideration for the sale of marijuana or marijuana products. A marijuana retailer shall pay a local sales tax imposed under this section to the commissioner of revenue at the same time and in the same manner as the sales tax due to the Commonwealth, or take any other action relative thereto.

(Recommended 3-0 the Board of Selectmen)
(Recommended 4-0-1 by the Finance Committee)

ARTICLE 20. To see if the Town will vote to add a new Chapter 29 to the General Bylaws of the Town of Lanesborough as follows:

BAN OF EPS FOAM CONTAINERS AND PLASTIC CONTAINERS IN FOOD ESTABLISHMENTS AND TOWN FACILITIES

SECTION 1. PURPOSE

This bylaw is enacted pursuant to the general police power in order to protect the health, safety and welfare of the inhabitants of the Town.

SECTION 2. EFFECTIVE DATE

This bylaw shall take effect on July 1, 2018.

SECTION 3. FINDINGS

Expanded polystyrene and single use plastic food containers form a significant portion of the solid waste stream going into our landfills. Local landfills are running out of room; our future solid waste may have to be transported hundreds of miles to a landfill at considerable cost.

Expanded polystyrene food containers are not recyclable, nor are they biodegradable. Once buried in our landfills, they will persist for centuries.

Styrene, the key ingredient in expanded polystyrene, was recently added to the National Toxicology Program's list of carcinogens (U.S. Department of Health and Human Services). Styrene can leach from polystyrene containers into food and beverages.

Many communities in the United States have banned expanded polystyrene food containers, including Seattle WA, Freeport Maine, Great Barrington MA and Nantucket MA.

Numerous Town food establishments have already stopped using expanded polystyrene food containers and plastic containers for health and sustainability reasons, and have instead used paper and/or cardboard containers.

Appropriate alternative and sustainable products are readily available from the vendors used by local food establishments; cooperative bulk buying arrangements are possible.

Thus, elimination of expanded polystyrene and plastic food containers is in the best interest of the health and welfare of Town inhabitants.

SECTION 4. DEFINITIONS

“Disposable Food Service Container” means single-use disposable products for serving or transporting prepared, ready-to-consume food or beverages. This includes but is not limited to plates, cups, bowls, trays and hinged or lidded containers. This definition does not include single-use disposable items such as straws, cup lids, or utensils, nor does it include single-use disposable packaging for unprepared foods.

“Food Establishment” means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption, as further defined in 105 CMR 590.002. Any establishment requiring a permit to operate in accordance with the State Food Code, 105 CMR 590.000, et. seq., shall be considered a Food Establishment for purposes of this bylaw.

“Expanded Polystyrene” (EPS) means polystyrene that has been expanded or “blown” using a gaseous blowing agent into a solid foam.

“Polystyrene” means expanded polystyrene which is a thermoplastic petrochemical material utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, form molding, and extrusion-blow molding (extruded foam polystyrene). The term “polystyrene” also includes clear or solid polystyrene which is known as “oriented polystyrene”.

“Prepared Food” means any food or beverage prepared for consumption on the Food Establishment’s premises, using any cooking or food preparation technique. This does not include any raw uncooked meat, fish or eggs unless provided for consumption without further food preparation.

“Town Facility” means any building, structure, land or park owned or operated by the Town of Lanesborough, its agents and departments.

“Town Facility Users” means all persons, societies, associations, organizations or special event promoters who require a permission to use a Town Facility. Town Facility Users also includes concession contracts with the Town, Town-managed concessions, Town-sponsored events and food services provided at the Town’s expense.

SECTION 5. PROHIBITION

- A. Except as provided herein, Food Establishments are prohibited from dispensing Prepared Food to customers in Disposable Food Service containers made from Expanded Polystyrene or plastic.

- B. Town Facility Users are prohibited from dispensing Prepared Food to customers in Disposable Food Service containers made from Expanded Polystyrene or plastic.

SECTION 6. DEFERMENTS

- A. Upon written application, the Board of Health, which shall have the authority to enforce such Bylaw, after a public hearing, may defer application of this Bylaw for a Food Establishment for a one year period, upon a showing by the Food Establishment that the conditions of this Bylaw would cause undue hardship. For purposes of this Bylaw, an “undue hardship” is a situation unique to the Food Establishment where there are no reasonable alternatives to the use of expanded polystyrene or plastic disposable food service containers and compliance with this provision would cause significant economic hardship to that Food Establishment.

Or take any other action relative thereto.

(Recommended 3-0 the Board of Selectmen)

ARTICLE 21. To see if the Town will vote to add a new Chapter 30 to the General Bylaws of the Town of Lanesborough as follows:

Regulating the use of plastic bags and paper carryout bags within the Town and promoting the use of reusable bags.

§ 1. PURPOSE AND INTENT

WHEREAS, the Town has a duty to protect the natural environment, the economy, and the health of its citizens; and

WHEREAS, the production and use of single-use bags have significant impacts on the environment, including, but not limited to:

- contributing to pollution of the land environment and waterways
- contributing to the potential death of marine and other wildlife;
- clogging storm drainage systems;
- littering Lanesborough’s streets, parks, public places, and local waterways; and

WHEREAS, plastic bags are made from fossil fuels, a non-renewable resource; and

WHEREAS, the manufacture, use, and disposal of plastic bags and paper bags requires substantial energy consumption and contributes to greenhouse gases and other adverse environmental effects; and

WHEREAS, plastic bags are not biodegradable or compostable, and are commonly not recycled; and

WHEREAS, single-use paper and plastic bags create a burden to solid waste collection and recycling facilities; and

WHEREAS, the costs associated with the use and distribution of single-use paper and plastic bags are borne by retail establishments and passed on to the customer; and

WHEREAS, affordable, ecologically responsible alternatives, including reusable bags, are readily available from numerous sources and vendors; and

WHEREAS, over 100 municipalities throughout the United States, Canada, Europe, Africa, Latin America, and Asia have placed restrictions on and/or fees for carryout bags, including Brookline, Great Barrington, Manchester, Newton, Provincetown in Massachusetts, as well as Los Angeles, CA; Boulder, CO; Washington, DC; Dallas, TX; and Seattle, WA,

NOW THEREFORE, the Town of Lanesborough hereby enacts the following bylaw to regulate the use of plastic carryout bags and paper carryout bags within the Town and to promote the use of reusable bags.

§2. DEFINITIONS.

The following words and phrases shall, unless context clearly indicates otherwise, have the following meanings:

ASTM D6400

The American Society for Testing and Materials (ASTM) International "Standard Specification for Compostable Plastics" which includes those plastics and products made from plastics that are designed to be composted under aerobic conditions in municipal and industrial aerobic composting facilities.

ASTM D7081

ASTM International "Standard Specification for Biodegradable Plastics in the Marine Environment" which includes those plastics and products that are designed to be biodegradable under the marine environmental conditions of aerobic marine waters or anaerobic marine sediments, or both.

BIODEGRADABLE

Materials that will completely degrade and return to nature, i.e., decompose into elements found in nature within a reasonably short period of time after customary disposal.

CARRYOUT BAG

A bag provided by a retail establishment to a customer at the point of sale for the purpose of removing products purchased therein.

COMPOSTABLE PLASTIC BAG

A plastic bag that (1) conforms to the current ASTM D6400 specifications for compostability; and (2) is certified and labeled as meeting the ASTM D6400 standard specifications by a recognized verification entity. A plastic bag that is made of polyethylene, polyethylene terephthalate, polyvinyl chloride, polypropylene, or nylon is not deemed "compostable."

CUSTOMER

Any person purchasing goods from a retail establishment.

MARINE DEGRADABLE PLASTIC BAG

A plastic bag that conforms to the current ASTM D7081 standard specification for marine degradability. A plastic bag that is made of polyethylene, polyethylene terephthalate, polyvinyl chloride, polypropylene, or nylon is not deemed “marine degradable.”

PERSON

Any natural person, firm, corporation, partnership, or other organization or group however organized.

POSTCONSUMER RECYCLED MATERIAL

A material that would otherwise be destined for solid waste disposal, having completed its intended end use and product life cycle.

PRODUCE BAG or PRODUCT BAG

A bag used by a consumer inside a retail establishment to: (A) contain bulk items, such as produce, nuts, grains, candy, or small hardware items; (B) contain or wrap meat, fish, or frozen foods whether or not pre-packaged; (C) contain or wrap flowers, potted plants, or other items to prevent moisture damage to other purchases; or (D) contain unwrapped prepared foods or bakery goods.

RECYCLABLE

Material that can be sorted, cleansed, and reconstituted using available recycling collection programs in the Town of Lanesborough for the purpose of using the altered form in the manufacture of a new product. "Recycling" does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.

RECYCLABLE PAPER BAG means a paper bag that meets all of the following requirements: (1) contains no old growth fiber, (2) is one hundred percent (100%) recyclable overall and contains a minimum of forty percent (40%) postconsumer recycled material; (3) is capable of composting, consistent with the timeline and specifications of the American Society of Testing and Materials (ASTM) Standard D6400.

RETAIL ESTABLISHMENT

Any commercial business facility that sells goods and/or services directly to the consumer including but not limited to grocery stores, pharmacies, liquor stores, convenience stores, restaurants, retail stores and vendors selling clothing, food, and personal items, and dry cleaning services

REUSABLE CARRYOUT BAG

A carryout bag that is specifically designed and manufactured for multiple reuse and meets the requirements of Section 4 of this chapter.

SINGLE-USE PLASTIC BAGS

Those bags, with or without handles, constructed of a film of high-density polyethylene (HDPE), low-density polyethylene (LDPE), linear low-density polyethylene (LLDPE), polyvinyl chloride (PVC), polyethylene terephthalate (PET), polypropylene (other than woven and non-woven polypropylene fabric) if said film is less than 4.0 mils (0.1016 mm) in thickness and which do not meet the ASTM D6400 and ASTM D7081 standard specifications.

§3. REGULATIONS AND PROHIBITIONS.

- (a) No retail establishment in the Town of Lanesborough shall provide single-use plastic bags to customers.
- (b) If a retail establishment provides carryout bags, produce bags, or product bags to customers, the bags must be one of the following:
 - (1) Recyclable Paper Bag, or
 - (2) Reusable Carryout Bag, or
 - (3) Compostable Plastic Bag (meeting the specifications of ASTM D6400, as defined herein), or
 - (4) Marine Degradable Plastic Bag (meeting the specifications of ASTM 7081, as defined herein)
- (c) Nothing in this chapter prohibits customers from using bags of any type that they bring to the retail establishment themselves or from carrying away goods that are not placed in a bag, in lieu of using bags provided by the retail establishment.
- (d) Any retail establishment that provides a recyclable paper bag, a compostable plastic bag, or a marine degradable plastic bag, with the exception of produce bags and product bags, to a customer must charge the customer 10 cents (\$0.10) for each bag provided, except as otherwise provided in Section 5 of this chapter.
- (e) No retail establishment shall rebate or otherwise reimburse a customer any portion of the 10-cent (\$0.10) charge required in Subsection (d), except as otherwise provided in Section 5 of this chapter.
- (f) All monies collected by a retail establishment under this chapter will be retained by that retail establishment.
- (g) This regulation does not apply to bags used by a non-profit corporation or other charity to distribute food, grocery products, clothing, or other household items to clients.

§ 4. REUSABLE BAG STANDARDS

- (a) A retail establishment may provide or sell reusable carryout bags to its customers or to any person.
- (b) A reusable carryout bag must have a handle.
- (c) A reusable carryout bag must be constructed out of:
 - (1) cloth, other washable fabric, or other durable materials whether woven or nonwoven; or

- (2) recyclable plastic, with a minimum thickness of 4.0 mil.
- (d) A reusable carryout bag must meet the minimum reuse testing standard of 175 reuses carrying 16 pounds.

§ 5. EXEMPTIONS

- (a) All retail establishments must provide at the point of sale, free of charge, either reusable bags or recyclable paper bags or both, at the establishment's option, to any customer participating either in the Special Supplemental Food Program for Women, Infants, and Children (WIC) pursuant to M.G.L. c. 111, or in the Supplemental Nutrition Assistance (SNAP) Program pursuant to M.G.L. c. 18.
- (b) The provisions of this chapter do not apply to bags used by a non-profit corporation or other charity as defined by M.G.L. c. 12 to distribute food, grocery products, clothing, or other household items to clients.

§ 6. ENFORCEMENT; VIOLATIONS AND PENALTIES.

- (a) The Town, through the Board of Health, shall have the authority to enforce this chapter by:
 - (1) inspection and investigation;
 - (2) the issuance of violation notices and administrative orders; and/or
 - (3) civil court actions
- (b) Whoever, himself or by his servant or agent or as the servant or agent of any other person or firm or corporation, violates any of the provisions of these regulations may be penalized by a non-criminal disposition process as provided in MGL c. 40, §21D. Each day of violation, after written notice, is a separate violation.
- (c) The following penalties shall apply:
 - (1) First offense: Warning
 - (2) Second offense: \$50
 - (3) Third offense: \$100
 - (4) Fourth and subsequent offense: \$200
- (d) The Town may suspend, revoke or deny any license or permit for violations of this chapter.

§ 7. SEVERABILITY; EFFECTIVE DATE.

- (a) Each section of this chapter shall be construed as separate to the end that if any section, sentence, clause or phrase thereof shall be held invalid for any reason, the remainder of that chapter and all other chapters shall continue in full force.
- (b) This chapter shall take effect on July 1, 2018.

(Recommended 3-0 the Board of Selectmen)

The business meeting at which Articles 2 through 21 will be acted upon will commence at 6:00 p.m., Tuesday, June 13, 2017 at Lanesborough Elementary School, 188 Summer Street in said Lanesborough. The election, or action on Article 1, will take place on Tuesday, June 20, 2017, at 83 North Main Street, Lanesborough and the polls will be open at noon and close at 8:00 p.m.

You are hereby directed to serve this Warrant by posting True Attested copies thereof in three public places and convenient places in the Town, at least seven days before the time of holding said meeting.

TOWN OF LANESBOROUGH
BOARD OF SELECTMEN

John Goerlach

John Goerlach, Chair

Robert Ericson

Robert Ericson

Henry Sayers

Henry Sayers

I have posted true and attested copies of said Warrant at the Lanesborough Post Office, the Lanesborough Town Hall and the Bob's Country Kitchen.

Gary Kirby

POLICE OFFICER

6-1-17

DATE

Ruth Knysch

TOWN CLERK

6-1-17

DATE